

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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DAVID J. SHEPARD,

Plaintiff,

v.

EDWARD CHUNG, ESQ.,

Defendant.

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Civil Action No. 23-CV-10718-AK

**ORDER**

**A. KELLEY, D.J.**

*Pro se* plaintiff David J. Shepard brings this breach of contract action against Seattle attorney Edward Chung, Esq. Shepard claims that he contracted with Chung to file a tort claim on his behalf, but Shepard failed to do so. In his prayer for relief, Shepard asks that Chung be required to return the \$4,550 he had paid to Chung and to pay special and punitive damages. On his civil cover sheet, Chung indicates that he is demanding \$13,500 in damages.<sup>1</sup>

It appears that the Court lacks subject matter over this action. Federal courts are courts of limited jurisdiction, “and the requirement of subject-matter jurisdiction ‘functions as a restriction on federal power.’” Fafel v. Dipaola, 399 F.3d 403, 410 (1st Cir. 2005) (quoting Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee, 456 U.S. 694, 702 (1982)). “The existence of subject-matter jurisdiction ‘is never presumed.’” Id. (quoting Viqueira v. First Bank, 140 F.3d 12, 16 (1st Cir. 1998)). Rather, federal courts “must satisfy themselves that subject-matter

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<sup>1</sup> Shepherd also includes a statement of damages, listing \$20,300 in damages for tort claims and \$4,550 in damages for contract claims. [Dkt. 1 at 7]. That form, however, is for cases brought in Massachusetts state courts, not the District of Massachusetts, which is a federal court, and is therefore irrelevant.

jurisdiction has been established.” Id. “If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” Fed. R. Civ. P. 12(h)(3).

Federal district courts may exercise jurisdiction over civil actions arising under federal laws, see 28 U.S.C. §1331 (“Section 1331”), and over certain actions in which the parties are of diverse citizenship and the amount in controversy exceeds \$75,000, see 28 U.S.C. § 1332 (“Section 1332”). Here, Shepard invokes federal question jurisdiction on the civil cover sheet, but he references no federal law in his complaint, and the Court cannot discern any federal law applicable on the facts alleged. As such, the Court does not have jurisdiction under Section 1331. As to Section 1332, Shepard has adequately pleaded that the parties are domiciled in different states, but there is no indication that the amount in controversy exceeds \$75,000.

Accordingly, the Court **ORDERS** Shepard to show cause, within twenty-eight (28) days, why this action should not be dismissed for lack of subject matter jurisdiction. Failure to comply with this order may result in dismissal of the case.

**SO ORDERED.**

Dated: May 11, 2023

/s/ Angel Kelley  
Hon. Angel Kelley  
United States District Judge